

**ZONING BOARD OF APPEALS**  
**MONDAY, JUNE 22, 2020**

Members Present: Rick Tamburrino, Robert Gagnier, Susan Marteney, Stephanie DeVito and Tom Adessa.

Staff Present: Brian Hicks, Code Enforcement, Nate Garland, Corporation Counsel.

Members Excused: Ed Darrow and Mario Campanello

**APPLICATIONS APPROVED:** 7 Ward Lane, 160 Grant Avenue, 67 Standart Avenue and 35-37 Hamilton Avenue.

**APPLICATIONS DENIED:** 23 Barber Street.

**APPLICATIONS TABLED:** 6 Lexington Avenue.

Rick Tamburrino: Good evening. Welcome to the City of Auburn Zoning Board of Appeals. I'm Board Vice Chairman Rick Tamburrino. Tonight we will be hearing 6 Lexington Avenue, 7 Ward Lane, 160 Grant Avenue, 67 Standart Avenue, 23 Barber Street and 35-37 Hamilton Avenue. I'd like to shift the agenda to move 23 Barber Street to the top. We've had a request from the gentleman, he is double booked on meetings so we will accommodate him. We'll start with 23 Barber Street.

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**23 Barber Street. Applicant is requesting the house being returned to a 3 unit apartment building.**

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Attorney Dan Testa, in virtual attendance: Client purchased 23 Barber Street which was originally a five unit building which was reverted back to a single family. She is requesting it be allowed to be turned into a three unit.

Chair opens the public meeting asking if anyone wishes to speak for or against 23 Barber Street..

Melanie Phillips, 25 Barber Street, in virtual attendance: Has lived there for twenty years. Explains the apartment complex has been nothing but trouble with police being called 198 times and 37 code violations. It has been condemned multiple times, there has been traffic 24/7 and it has been nice not having drug traffic. Her other concern is no off street parking.

Mr. Testa: Agrees that caller has points but explains that his clients want to put money into the property to make it a nice spot and part of a nice community.

Public portion is opened.

Vice Chairman asks if there is anyone else to speak for or against this property.

Public portion is closed.

Vice Chairman presents a letter submitted by David Finster who has a lot of complaints that are very similar to Melanie Phillips.

Ms. DeVito: Understands people's concerns. Her biggest concern is the parking, there isn't any parking as is, let alone adding any more vehicles. Houses are so close already.

Mr. Adessa: Gives credit for them wanting to improve the property but agrees with Ms. DeVito, as he has done parking enforcement in the city. Barber street would have worse parking in the winter making it very difficult for emergency vehicles.

Mr. Tamburrino: His concern is that the variances are substantial. For example, for apartment A the required 800 square feet, they want 600. Apartment B, 1,000 down to 660 and 800 down to 592. Essentially with these variances, you are trying to squeeze people in there. Variances are substantial.

Mr. Gagnier: Went very early in the morning to see parking and found only one parking spot within a reasonable distance of this house.

Board discusses that the property does not have any room for any rear parking on this lot, with shrubbery in the backyard.

Lauren Williams, in virtual attendance: Said Dan Sanders, contractor, has worked with architects back and forth to see if they can figure out any off street parking. They dropped down from five units to three units to try to give better space. They have spent thousands of dollars and time on their plans. They want to improve the property and bring in good clients. They purchased the property through a wholesale company and was unaware that it was reverted from a five unit to a single family.

Vice Chairman asks for a motion. Robert Gagnier makes a motion to grant Testa Law Firm five area variances to convert the structure from a single to a three family multi-family home with the first variance being an area variance of 7,350 square feet of the required 11,250 feet in lot size, second area variance for apartment A of 196 square feet of the required 800 square feet, apartment B area variance of 340.5 square feet of the required 1,000 square feet, apartment C area variance of 208 square feet of the required 800 square feet and area variance five of three parking spaces of the required three parking spaces, one for each unit. Susan Marteney seconds this motion.

Mr. Garland: Would like the motion to be amended as the motion should be granted to Generation Freedom, LLC instead of Testa Law Firm.

All members vote no due to issues with parking as well as the substantial amount of variances being requested.

Application has been denied.

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## **6 Lexington Avenue, R1 zoning district.**

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Attorney John Rossi is in virtual attendance to represent his client, Mr. Tardibone.

Mr. Garland would like to refresh everyone's recollection. Applicant originally sought a use variance for retail use, turning it into a bottle return/sell soft drinks. Board voted positive on a seeker. Legally, we must operate from a positive declaration of the seeker. The law requires the applicant to file an environmental safety statement. Mr. Rossi has provided this for his client stating he is aware of the particular issues of the board, with the driveway being close to the stop light at the corner of Genesee. Environmental impact statement, if approved, will be put before the public for thirty days for public comment and then the board can decide whether or not to adopt the environmental impact statement and do a negative declaration or address the concerns the board had back in November.

Mr. Tamburrino: Brings up the engineering traffic study in order to look at congestion in the area.

Ms. DeVito: Pointed out that it was agreed prior that if Mr. Gilfus or someone from APD could check out traffic there, it would be okay versus the client paying for an actual traffic study.

Mr. Garland: States that after discussing with Greg Gilfus, it was agreed that him, nor APD, is in the business of conducting traffic studies in this capacity.

Ms. Marteney: The concern was traffic as far as drivers turning left onto Genesee and traffic coming down Lexington causing accidents. This was the reason for the traffic study, not the pedestrians walking on the sidewalks.

Mr. Garland advises that at the time, it is the Board's duty to let the applicant know if the statement is sufficient or what they believe would be sufficient.

Mr. Rossi: He believes they are being treated differently from any other businesses in Auburn. He goes on to compare the property with several other businesses on Genesee Street. He also explains the, approximate, \$5,000 cost of the traffic study and asks how much they have to put in to make a simple redemption facility.

Vice Chairman opens the public portion.

John Holmes, 5 Kensington Avenue, in virtual attendance: Voices concerns against 6 Lexington stating that Mr. Rossi doesn't understand how much traffic there is and what this will do to the neighborhood.

Vice Chairman closes the public portion.

Vice Chairman asks for a motion.

Susan Marteney makes a motion, Stephanie DeVito seconds it.

All members vote no, all in agreement that professional engineering services are needed to give more objection.

Mr. Gagnier makes a motion for Mr. Tardibone to be required to obtain a traffic engineering study. Ms. DeVito seconds.

Mr. Rossi asks if a traffic study would be needed if he changes the business to a drop off. He is told no but that it would require another application.

All members vote in favor of an engineering study.

Application is tabled.

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**7 Ward Lane. Applicant is looking for an area variance of 217 square feet over the maximum allowed 784 square feet. Applicant: Denise Moniz.**

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Denise Moniz, in virtual attendance: Has signatures from neighbors which was requested by the Board and has been provided. She is looking to build a 24 foot by 24 foot garage.

Robert Gagnier makes a motion to approve the area variance. Stephanie DeVito seconds.

All in favor. Variance has been approved.

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**160 Grant Avenue. Applicant is requesting five area variances.**

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Jay Erzee, 530 State Route 104 Ontario, NY, in virtual attendance: Contractor for Starbucks. They are requesting five area variances, four of them pertaining to menu boards. First two are 4 inches in height of the 5 foot allowed, 3 square feet additional of the 20 square feet allowed. The 4 inches higher is the standard package for Starbucks signage. The fourth variance is to screen/shield from public which they believe wouldn't look great and isn't practical.

Joe Lesko, in virtual attendance: Explains that this was an existing drive thru and the previous signs were not screened. He says that they wouldn't be opposed to it just that he believes there isn't a good way to do it.

Jay Erzee: The fifth variance is to the existing monument sign. They brought the sign down four or five square feet from the original and stays within the curve. It doesn't overhang like the

previos sign. It would allow traffic to flow through. They want the sign there because seeing the sign out front would designate where to turn in and allows you to see without taking eyes off the road.

Mr. Gagnier: The new sign, if granted, would have a height of 19 foot, 10 ½ inches, 11 foot to the bottom. What is the height of existing?

Joe Lesko: Approximately 17 foot 1 ½ inches.

Mr. Tamburrino: States that his only concern is with the pylon. The code says that no pylon signs are allowed within the city.

Ms. DeVito: Explains that she believes Grant Avenue is different and that it would be consistent with what's out there.

Board discusses that it's still shorter than the previous sign, will not obstruct traffic and would be a good reuse of the previous sign.

Vice chair asks for a motion. Motion is made by Robert Gagnier and seconded by Stephanie DeVito.

All vote in favor. Application is approved.

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**67 Standart Avenue. Applicant is requesting 2 area variances for a 24 foot round above ground pool. Applicants: Steven and Joanne Montgomery.**

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Steven and Joanne Montgomery, 67 Standart Avenue, in virtual attendance: They state that the above ground pool was installed/replaced in 2014 and that it was unknown that they needed a permit. They are requesting variance to keep the pool.

Mr. Garland: Explains that they wanted a pool in 2000 and had gotten a permit. In 2014 they replaced without knowing that they needed a permit. Codes was notified last year and they are now looking for variances.

The Montgomery's explain that it's the same spot and the same size pool as prior.

Mr. Tamburrino: States his confusion with the application and the variances requested.

Brian Hicks: If you look back in 2000, they were granted a variance that went by the land. This application is for a variance from the original. The pool is the same size. There may be an issue with the dimensions he was given of 2 foot, 4 inches from the rear property line. They do not require surveys.

Chair opens the public portion.

Craig Diego, 71 Standart Avenue: Explains that he has no issue with them or the pool, however, some facts are not accurate. He also has an issue with them coming and getting a permit after already replacing the pool. They had a survey done last year because they were upset about Mr. Diego's garage and that is when it came to light that they broke the variance from 2000 for 5 feet from the property line. He says that it is not four inches, but almost a foot. His issue is with "selective enforcing" and that they put the pool in without a permit and now after having a survey done for alternative reasons, they are now asking for a new variance. They had to be sent letters three times before applying for a permit.

Chair closes the public portion.

Chair asks for a motion. Motion to approve is made by Robert Gagnier, seconded by Stephanie DeVito. All in favor. Application is approved.

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**35-37 Hamilton Avenue. Applicant is requesting an area variance of 8 feet and 8 inches for a front yard driveway. Applicant: James Scanlan.**

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James Scanlan, 3299 North Seward Avenue, in virtual attendance: Requesting a variance of 8 feet and 8 inches for upstairs tenant parking. He explains that he has owned the property since 2002 and it has been the first of three rental properties. This issue is at the top of his list because this apartment is the hardest to fill as there is no off street parking and he has had two prior tenants with damage to their vehicles as a result of on street parking.

Chair opens the public portion.

Chair closes the public portion.

Mr. Gagnier: Asks if there are any required setbacks for driveways or if, because it's front yard parking, it doesn't matter.

Mr. Hicks explains that there are no required setbacks for driveways and that they are allowed for ingress and egress. Setbacks are specifically stated for structures.

Board discusses that while off street parking is a good thing, there is already one driveway, and they are concerned with how it will look in the neighborhood.

Chair asks for a motion. Robert Gagnier makes a motion, seconded by Tom Adessa.

All members vote in favor except for Rick Tamburrino, who believes this would be detrimental to the neighborhood.

Variance is granted.

**Housekeeping.**

Board discusses how to resolve issues with people doing things without variances or permits and then coming to the board afterwards.

Next meeting is July 27, 2020. Meeting is adjourned.